

Current Waste Related Policies (March 2005)

The Provision of Additional Containers (Policy 1)

1. Background

The Council will see an increase in demand for larger or additional wheeled bins from households. The Government's Agenda demands a high emphasis on waste minimisation, recycling and the overall reduction of waste. It is important when deciding a policy for additional containers that we do not lose sight of the key objectives. Our systems have been designed so that users have to focus on recycling as they will not have sufficient capacity in the residual / grey bin alone.

Policy 1

An additional 180 litre container will be supplied to households providing they meet the following criteria;

- The family size is five or more persons.
- Full use is being made of all recycling services available to them.

Replacement Containers (Policy 2)

2. Background

Experience from other Councils show that there will be a certain number of reported lost, stolen or damaged containers. It is important that we pre-empt this and have a policy in place.

Policy 2

A charge will be made for a replacement container which will include all administration and delivery cost.

Exception to this will be;

- Where damage to the bin can be attributed to manufacturers defects.
- Damage to the bin can be attributed to the Council or its agents.
- Where a container has been stolen by a third party.

Provision of Containers to New Developments (Policy 3 and 4)

3. Background

The Devon Structure Plan identifies the need for an additional 4000 properties within the District. At today's prices it would cost the Council £118,000 excluding V.A.T. , to supply containers to these properties. This excludes delivery cost which could add another £40,000. The Council can use its powers under the Town and Country Planning Act 1990 and secure a Section 106 agreement for the cost of providing and maintaining waste provisions from developers.

Policy 3

The Council will use agreements under Section 106 of the Town and Country Planning Act 1990 to require developers to bear the cost of providing and maintaining containers for waste, to properties constructed on new developments. The type and specification of the containers will be determined by the Council.

Policy 4

The Council will use agreements under Section 106 of the Town and Country Planning Act 1990 to require developers to bear the cost of providing suitable and accessible storage for waste containers. The size and suitability of the provision will be determined by the Council.

Waste Not Stored in a Suitable Container (Policy 5)**4. Background**

So as to encourage householders to separate their waste and recycle, it is important that the Council has in place a firm policy that ensures that they use the containers supplied for their waste. The grey / residual bin in its entirety is not of sufficient capacity to accommodate an average household's waste, if they do not make use of both the organic / brown bin and the dry recycling sack scheme. It is therefore, important to ensure that the mind is focussed on using all the arrangements that are in place. Therefore, side waste next to wheeled bins should not be accepted by this Council. In addition, if the Council were to accept the principle of collecting side waste it would be contradictory to its objective of minimising risks to its employees in relation to manual handling and injuries from glass and needles. The legal power exists to do this under section 46 of EPA 1990.

Policy 5

No waste placed out for collection will be removed unless it is in a container supplied by the Council.

Contamination of Recyclable Material / Non-separation of Waste (Policy 6)**5. Background**

The success of most recycling schemes is based on the participation rate of the number of individuals offered the scheme, together with the quality of material presented for recycling and reprocessing.

Where wheeled bins can be stored on the property of householders and accessed by collection crews, the Council will expect a 100% participation rate. As mentioned previously in this report, by design the average household, will not have sufficient capacity to accommodate all of their waste in just the 180 litre grey bin. To ensure the economic viability of the waste schemes it is imperative that participation is mandatory. Logically, if this principle is followed, then if persistent offenders try to spoil the scheme or just refuse to participate, then the Council should use its powers to prosecute. It is proposed that the Council manages this in a reasonable and proactive manner where the principle of 'four strikes and you are out' is followed.

Policy 6

The Council will use the powers under the Environmental Protection Act 1990 to ensure that householders separate waste into the designated containers supplied.

For the purposes of clarification where recyclable material remains in the grey, residual bin and it can be demonstrated that there is sufficient capacity in the recycling containers, be they organic or dry recycling. This will be deemed as non-conformity. Conversely, contamination of dry recyclable material will also be deemed as non-conformity.

Assisted Collections (Policy 7)

6. Background

The Council, in adopting the changes to the waste collection services has agreed to the policy that waste must be presented at the kerbside / curtilage of a property.

It must be recognised that some households will require assisted collections as they may have some physical disability that will prevent them from meeting the Council's requirements.

In establishing a policy for assisted collections consideration has to be made on the nature of proof from the householder that may be required to grant such a concession.

The supplying of a doctor's note is one form of proof. However, the health authorities are under considerable pressure, due to the number of requests that they receive for medical notes for a variety of reasons. It is considered that the Council should make the process of offering assisted collections as painless and less bureaucratic as possible for the applicants. It is therefore, proposed that the individuals complete a declaration form.

Policy 7

The Council will offer assisted collections to individuals who are not physically capable of bringing their waste to the designated collection point, as nominated by the Council. Individuals who require this concession must complete a signed declaration stating;

- Medical condition.
- That there is no other person in the household who can complete the task.
- If the medical condition is permanent or temporary.
- The location of the containers on the property and that there is safe direct access to the containers.
- That the individual must inform the Council if their circumstances change.
- Date of Birth.
- Name and address of their doctor.

Assistance will be given to individuals in completing the form if so requested.

The Council may, if it wishes, take up the option of substantiating any declaration with the individual's doctor. If it is found that circumstances have changed then the Council will write to the householder informing them of such information and the concession of an assisted collection will be withdrawn. The individual will be given 14 days to appeal. Failure to bring the container to the designated collection point once the concession has been withdrawn will result in the Council prosecuting the individual (see policy 8).

Location of Containers (Policy 8)

7. Background

The Council has changed its policy for the collection of waste. Previous policy was back door collection, no container supplied, weekly collection. New policy is that wheeled bins will be supplied to households who can accommodate these containers. The frequency of collection will be alternate weekly and the location of

the containers will be kerbside. Where households cannot accommodate the new containers they will have to supply their own containers, but enjoy a weekly collection service at the kerbside. The issue will be if householders do not place their containers at the designated collection point.

Policy 8

The Council will not collect waste from domestic premises that have not placed the material at the designated location.

All households must place their waste out for collection by 07:00 on the day of collection.

Waste Placed Out on the Wrong Day of Collection (Policy 9)

8. Background

Waste placed out for collection prior to the day of collection can be a real issue for the Council. If the waste is in plastic sacks it can attract vermin who will distribute material over the highway. Other issues can be the obstruction of the highway.

Policy 9

The Council will investigate all cases of waste placed out on the incorrect day of collection. It will liaise with all agencies to secure evidence with an intention to prosecute if it is felt necessary.

Missed Collections (Policy 10)

9. Background

Providing all householders follow the prescribed rules then there should be no instances of missed refuse. It must be noted that the rules capture;

- Time of collection.
- Day of collection.
- No side waste.
- Location of container.

The only instances may relate to assisted collections if the prescribed list is not adhered to.

Policy 10

The Council will not return to collect waste that has been reported as missed if it was not placed out in the correct location, at the correct time and in the correct container.

Point of Collection (Policy 11)

10. Background

Within the South Hams there are a diverse range of properties. These can range from flats located in the centre of towns to large properties located in isolated parts of the district. It is not uncommon to have to travel great distances to collect waste from some of these properties. In some instances access is often restricted to the point collection i.e. where the waste is stored. Issues can be unmade private tracks, single carriage way access, gate/access width of track/road, owners will not permit vehicles onto their land. In most of these instances smaller vehicles have to be used. In

addition great distances may have to be travelled before the vehicles reach the boundary of the property or even on the property before the waste can be collected. Even when access has been gained there can be some health and safety issues while travelling on the private land. These can relate to gradient and condition of the access roads. The Council needs to re-consider its position concerning these properties and establish clear guidelines that will ensure that the Council is discharging its responsibility in relation to its employees, as well as operating an efficient and economical service.

Policy 11

When collecting waste from a property if it is judged that the property is so isolated or inaccessible, or there are health and safety issues that mean that the cost of collecting would be unreasonably high, then the Council will nominate a point of collection.

Wavering Charges for Waste Collection Services (Policy 12)

11. Background

In 2002, the Council introduced charges for bulky household waste collections and the collection of white goods, which includes fridges and freezers. At the time of making the decision, Council Members were keen to have in place an arrangement whereby charges could be waived if individuals had a problem with meeting the cost of the service.

This concession is not advertised. Each request for the waiver of charge is considered on its own merits. From April to November 2004, 12 customers have had charges waived, out of a total of 496 collections. Environmental Protection Act 1990, section 45.3 The Controlled Waste Regulations 1992

Policy 12

The Council will waive charges for bulky household waste collections and the collection of white goods, providing the customer can demonstrate a case of financial hardship.

It shall be left to the discretion of the manager of service to make the decision on if the charge is waived.

Abandoned Vehicles (Policy 13)

12. Background

The age of vehicles on the highway is decreasing due to the rigorous rules in place to secure a Ministry of Transport test certificate (M.O.T.). It is becoming more and more difficult to make a judgement on if a vehicle is abandoned based on just the physical appearance of a vehicle alone. The reality is that there can be instances where the cost of mechanical repairs to a vehicle can far exceed the value of the vehicle, but for all intents and purposes the vehicle looks like it is a viable proposition.

Although the Council has powers to serve a 24 hour notice on a vehicle under the Removal and Disposal of Vehicles (England) Regulations 2002, we effectively serve a 7 day notice under the Refuse Disposal Amenity Act 1978. This longer period gives any individual who has legal ownership of the vehicle the right to remove the

vehicle before the Council collects it.

In reality two thirds of the vehicles that have notices served on them disappear before the Council has an opportunity to collect them.

Policy 13

The Council will remove all abandoned vehicles up to the value of £500 using its powers under the required legislation.

The Council will use its powers under the Refuse Disposal Amenity Act 1978 and serve seven day notices on all abandoned vehicles. Exception will be if the vehicle is in a dangerous condition.

Fly Tipping (Policy 14)

13. Background

Generally speaking fly tipping is the illegal deposit of any waste onto land, i.e. waste dumped or tipped on a site with no licence to accept waste.

Waste includes: general household waste; larger domestic items including fridges and mattresses; garden refuse; and commercial waste such as a builder's rubble, clinical waste and tyres. Such waste can occur in any quantities, in any mixture, in any location.

Under the Environmental Protection Act 1990 the Council, as a principle litter authority has a duty to ensure that all land under its direct control, which is open to the air and to which the public has access is kept clear of litter and refuse, so far as is practicable.

Fly tipping is a criminal act. Penalties are up to a £20,000 fine or six months in prison in a magistrates court and unlimited fines or two years in prison in higher courts. Where hazardous waste is involved, the penalties can be even more severe.

There is a signed agreement in place between the Local Government Association and the Environment Agency, known as the 'Fly Tipping Protocol'. This details the situations where the public could expect either the Environment Agency or Local Authorities to respond.

Policy 14

- The matrix for fly tipping contained in the agreement between the LGA and the Environment Agency will be followed to establish the management of fly tipping.
- The Council will prosecute offenders who fly tip providing it has sufficient evidence to secure a prosecution.

Legal Powers

Environmental Protection Act 1990, Section 33 & Section 34.

Refuse Disposal (Amenity) Act 1978, Sections 2 & 6.

Highways Act 1980, Section 148.

Environmental Protection Act 1990, Section 59.

Public Health Act 1961, Section 34.

Dropping of Litter (Policy 15)

14. Background

The Council under the Environmental Protection Act 1990, as a principle litter authority, has a duty to ensure that all land under its direct control, which is open to the air and to which the public has access, is kept clear of litter and refuse, so far as is practicable.

It discharges its duty by putting in place arrangements to meet the required standard as laid down in the 'Code of Practice on Litter and Refuse', together with meeting required performance indicators, such as the BVPI 199.

The arrangements are utilising both manual and mechanical sweepers together with the strategic placing of litter bins.

It could be said that sweeping a street is a reactive way of dealing with an issue and not proactive. Proactive methods should include education and enforcement which ideally would reduce the problem.

There are in place various codes of practice, good practice and mechanisms that can be used to improve the local environment. It is suggested that these are used to establish a policy that can be implemented to manage these problems.

Policy 15

- The Council will establish a code of practice that can be adopted by local businesses so that they can manage litter that has been generated from their activity.
- The Council will ensure that it has sufficient litter bins in place at the right locations to assist in the management of litter.
- The Council will form local partnerships with businesses to manage the issues of waste.
- The Council will put in place suitable containers that can receive litter in a segregated form and this will be recycled.
- The Council will promote the initiative of sponsorship of litter bins.
- The Council will promote campaigns in a drive to reduce litter.
- The Council will use its powers under the Environmental Protection Act 1990, section 93 and 94 to serve Street Litter Control Notices and require that they are complied with, on businesses where customers are repeatedly leaving litter on streets or other land.
- The Council will use its powers under the Environmental Protection Act 1990 and the Clean Neighbourhoods and Environment Act 2005 to issue fixed penalty litter notices to offenders who drop litter on the highway.

Holiday / Second Home Waste (Policy 16)

15. Clearly within the district there are a number of properties that are classified as second homes or holiday homes. For this category of household the new waste scheme causes a number of potential issues such as:

- Waste placed out on the wrong day of collection.

- Waste not being separated into different containers by the visitors.
- Second home owners not occupying the property on the day of collection and so cannot place out or retrieve containers.
- Containers not placed at the boundary of the property on the day of collection.
- Waste dumped at locations away from the properties.
- Employees working for letting agents are collecting and managing waste when they do not meet the requirements of legislation, i.e. no Waste Carriers Licence, no Duty of Care Notes in place.
- The Council not collecting waste on the day that holiday homes are vacated.
- Holiday home waste collection areas becoming general dumping areas for all types of waste including commercial waste and as a consequence, the Council may not be adhering to Waste Management Licensing Regulations.

To accommodate as many customers as possible in the new waste scheme and in light of Phase 1 experience, it is now timely to put in place a policy relating specifically to holiday/second home waste. In determining what arrangements need to be put in place it is important to understand how each property is classified in relation to Council Tax and National Non Domestic Rates (NNDR) and the legislation supporting waste collection.

Second homes or holiday homes can be separated into the following categories:-

- Properties that are let for *less than 139 days* per year for financial gain. These can be classified as domestic rated premises.
- Properties that are let for *more than 139 days* per year. These are classified as business rated (NNDR).

There is however a variation on this in that if a person has two properties they can choose which one is nominated as the main residence. Thus the situation can arise when a property in the South Hams is let for more than 139 days but is effectively still domestic rated. Clearly this is not very helpful in trying to identify how one manages the waste from such properties.

Unlike Council Tax, NNDR does not include a provision for waste collection therefore any business rated property must arrange and pay for a waste collection separately. In addition, the Controlled Waste Regulations 1992 Schedule 2 identify the types of household waste for which a charge for collection may be made and includes the definition '*Waste from domestic property or a caravan used in course of a business for the provision of self catering holiday accommodation*'.

The Environmental Protection (Duty of Care) (England) (Amendment) Regulations 2003 gives the Council powers to ask business rated premises for their Duty of Care Notes. There is a requirement that all business rated premises have to manage their waste in a fit and proper manner and must have in place the correct documentation to support this. This includes a Duty of Care Note.

Looking at all the facts and information together with the legislation relating to household waste and Duty of Care specifically, the Council now needs to formalise arrangements for second/holiday homes by putting in place an additional policy as set out below:-

Policy 16

- All domestic properties that are let for financial gain will be included within the new arrangements free of charge unless the managers\owners of the properties can demonstrate that this is not achievable i.e. containers, frequency, day and location of collection are not suitable. In this case the owners of the property would be classified as 'opting out' of the scheme.
- All domestic properties that are let for financial gain will be offered the option of using the household recycling scheme.
- Where a domestic property has 'opted out' of the scheme (see 1 above) and is let for financial gain, be it less than or greater than 139 days, a charge will be made for the collection of the waste. The charge will be used to fund a different day/type of collection which may include Saturdays to accommodate 'opt out' properties.
- Domestic rated second home owners must adhere to the Council's policies on waste collection. This includes placing the bin out on the day of collection, using the correct containers and separating the waste correctly.
- If owners of domestic rated properties using the properties as second homes wish to enjoy a collection regime that does not fall inline with their own requirements then they will be offered alternative services as identified in (3) above. It will also be assumed that they are 'opting out' of the alternate weekly collection arrangements.
- The Council will not offer any other alternative waste collection service or holiday home waste collection areas drop off site for this waste which does not comply with Waste Management Licensing or Duty of Care legislation.

Legal Powers

Environmental Protection Act 1990, Part IV, Sections 87, 88, 90, 92, 93 and 94.
Clean Neighbourhoods and Environment Act 2005.

It is important that as a Council who is to introduce new changes to its waste collection services, together with a wish to maintain a clean environment that it has in place rigorous policies to support these initiatives and objectives.

This report outlines those policies that will be required to meet the Council's objectives.